



Confronting Confinement

A Report of
THE COMMISSION ON
SAFETY AND ABUSE
IN AMERICA'S PRISONS

John J. Gibbons
Nicholas de B. Katzenbach
COMMISSION CO-CHAIRS

What happens inside jails and prisons does not stay inside jails and prisons. It comes home with prisoners after **they** are released and with corrections officers at the end of each day's shift. We must create **safe** and productive conditions of confinement not only because it is the right thing to **do**, but because it influences the safety, health, and prosperity of us all.

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VIOLENCE: THE NUMBERS AND BEYOND

A Decades-Long Decline in Deadly Violence

Data collected by the Bureau of Justice Statistics of the U.S. Department of Justice (BJS) on deaths in custody show a downward trend nationally in recorded levels of homicide and suicide in state prisons and local jails. This decline occurred when as the U.S. prisoner population increased more than tenfold. Homicide rates in state prisons decreased dramatically from a 20-year high of 54 homicides per 100,000 prisoners in 1980 to 4 per 100,000 in 2002. During the same period, suicide rates decreased from 34 per 100,000 prisoners to 14 per 100,000. In local jails, reported homicide rates declined from 5 per 100,000 prisoners in 1983 to 3 per 100,000 in 2002, and the suicide rate in 2002 was less than half the rate reported in 1983 (47 per 100,000 prisoners compared with 129 per 100,000) (Mumola 2005).

In the most recent published national data, for 2002, there were a total of 68 homicides and 482 suicides in state prisons, and local jails, and 84 deaths occurring for "other/unknown" reasons (Mumola 2005). Deaths by "positional asphyxiation," often the result of improper physical force or mechanical restraints, are counted among "other" deaths. The number of fatalities, however, is just a small part of the violence behind bars.

Data on Non-Deadly Violence: Too Flawed to Draw Definitive Conclusions

BJS has made significant progress in improving the validity, reliability, and comprehensiveness of the data on violence, but there are still significant weaknesses and blind spots. National data on assaults, in particular, are considered by BJS's chief statistician, Allen Beck, to be unreliable. "The level of assaults is simply not known. I cannot measure well the level of assaults using administrative records as they exist today," Beck told the Commission.

The imprecision and unreliability of the data on assaults stems in part from the fact that state and local systems have vastly different commitments to recording violence, define assaults differently, and are not consistent over time in what they record and report to the federal government. While there is at least an effort to collect administrative data on assaults in prison, there is no effort to collect parallel data for jails nationwide. Perhaps the biggest blind spot: There are no national measures of physical violence and excessive use of force by staff against prisoners, including the inappropriate use of restraints and non-lethal weapons. And these considerable weaknesses are just part of the problem.

Measuring levels of violence and victimization has always challenged social science researchers; it is particularly difficult to measure violence between prisoners. Administrative records are believed to significantly underrepresent the actual numbers. Studies have found that prisoners dismiss the value of reporting violence or attach stigma to those who do report (Edgar and O'Donnell 1998). Researchers have found large disparities between levels of violence captured in official records compared with reports by prisoners and staff about victimization. To researchers, prisoners report assaults at a rate five times higher than the number recorded by correctional authorities (Fuller and Orsagh 1977, Cooley 1993).

The weaknesses and gaps in administrative data reported to the federal government mean that we cannot pinpoint actual levels of violence in U.S.

Arkansas, North Dakota, and South Dakota reported zero assaults among prisoners statewide in 2000. Pennsylvania, with a prisoner population of 36,000, reported just 17 prisoner-on-prisoner assaults.

correctional facilities or reliably assess trends over time. All we have are rough indicators. The most recent data available are from the year 2000. Over the course of a year, there were 34,355 reported assaults among prisoners in state and federal facilities and 17,952 reported assaults by prisoners against staff (Stephan and Karberg 2003). Additionally, the first wave of data collection on sexual assault mandated by the 2003 Prison Rape Elimination Act—a gathering of administrative data from 1,840 adult prisons and jails nationwide in 2004—documented 4,252 recorded allegations of sexual assault, misconduct, and harassment by prisoners and staff (Beck and Hughes 2005).

A look beyond national measures of assaults to the 1995 and 2000 state- and facility-level data that inform those aggregate numbers raises serious questions about the reliability of the reported levels of violence in State prisons. There are at least three reasons for doubt: In some states, a number of facilities are not reporting assault data; in some states, the number of assaults reported is improbably low; and looking at the rate of assault, the variation between states and changes within states over time are inexplicably large.

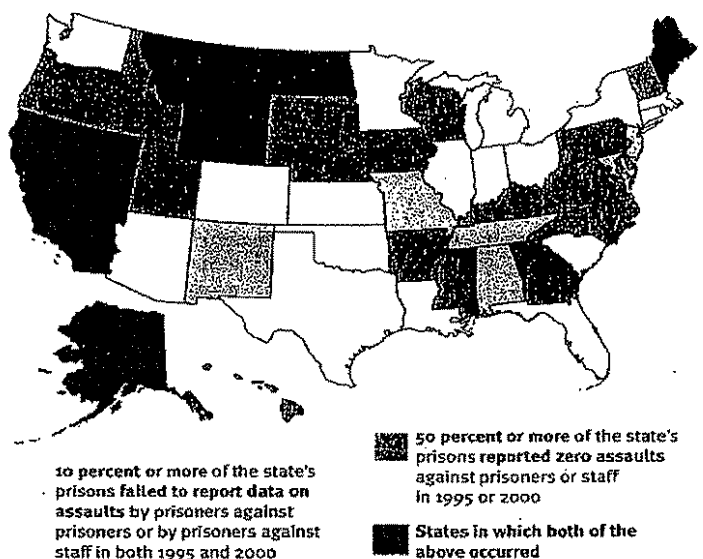
In 13 states, 10 percent or more of the prisons failed to report assaults by prisoners against prisoners or against staff in both 1995 and 2000. Moreover, some states had even higher levels of non-reporting: For example, none of North Dakota's facilities reported prisoner-on-prisoner assaults in 1995, and a quarter of Ohio's facilities did not report that data in 2000. When data is missing, BJS has to estimate the number of assaults. It is generally accepted that estimating more than 10 percent of any single type of data makes the resulting measure unreliable.

Another indicator of unreliability is the extremely small numbers of assaults reported in many prisons.

Arkansas, North Dakota, and South Dakota reported zero assaults among prisoners statewide in 2000. In 26 states, 50 percent or more of prisons reported zero assaults against prisoners or staff in 1995 or 2000. And several large state systems reported very low total assault numbers: In 2000, Pennsylvania reported just 17 prisoner-on-prisoner assaults among a prisoner population of 36,000, and Virginia, with 30,000 prisoners, reported 61 assaults against prisoners statewide.

Finally, a look at reported rates of assault in state prisons raises doubts. In 2000, the great variation in reported statewide rates of prisoner-on-prisoner assaults is questionable: For example, Louisiana reported 131 per 1,000 prisoners. California reported 44 per 1,000, and Florida reported only 5 per 1,000. And the change in the reported rates between 1995 and 2000 was also often questionably large: In two states, the rate of prisoner-on-prisoner assault declined by 100 percent, that is to zero. And in nine states the rate increased by more than 100 percent. At the extreme: Georgia's rate went from 0.13 assaults per 1,000 prisoners in 1995 to 57 per 1,000 in 2000; Utah's increased from 6 per 1,000 to 62 per 1,000 over that period. (BJS 2000 Census data Set. Beck and Harrison 2001).

Assaults by Prisoners: Questionable Data



SOURCE: BUREAU OF JUSTICE STATISTICS

Better Measures are Needed

We need uniform definitions of non-lethal violence and standardized reporting of it (see Knowledge and Data on p. 101). We also need additional mechanisms for measuring violence and victimization. BJS reaches its conclusions about trends in violence based solely on administrative records of rule violations, even though the agency regularly surveys men and women in prison. BJS should ask more questions about violence and make an effort to ask the same questions every time the agency surveys prisoners in order to capture trends overtime. Doubts about the reliability of administrative records to fully capture levels of sexual assault led BJS to carefully construct a survey of current and former prisoners, which it is now testing. This survey should encourage and guide the development of a broader survey that captures other forms of non-lethal violence. ■

The largest jail system in California and the largest nationwide—operated by the Los Angeles County Sheriff's Department—is also extremely crowded. During the week of the Commission's final hearing, in February, 2006, in Los Angeles, there was ongoing violence in the jails that claimed two lives and injured more than 100 prisoners (del Barco 2006). Sheriff Lee Baca and others attributed the violence to racial tensions and gangs in the jails and in the community. Jody Kent, who coordinates a court-directed monitoring program within the jails, disagreed with this limited characterization when she testified before the Commission. She argued that interracial violence was in large part a reaction to institutional problems, particularly crowding, which had created stressful living conditions and a near total absence of programming and productive activities. Similarly, in describing Alabama's Julia Tutwiler Prison for Women, a federal judge said that severe crowding can make a facility a "ticking time bomb," where explosions of violence are inevitable (*Birmingham News* 2002).

Overcrowding and Violence in Alabama's Prison for Women

The Julia Tutwiler Prison for Women in Wetumpka, Alabama, was built in 1942 to house 364 women. By 2002, it was home to more than 1,000 women. When a federal lawsuit was brought in 2002 to address extreme crowding, violence was one of the primary concerns. The facility did not have the capacity to separate prisoners who were dangerous to one another; it did not have the resources or capacity to safely care for and separately house prisoners with mental illness and those with serious diseases; and it was too crowded and underresourced to provide programming. So prisoners were spending endless idle hours in brutally hot dormitories crammed so full of beds and bodies that officers could not monitor and control them.

In July, 2002, an officer was severely beaten while working alone inside one of the crowded dorms. At that time there were, on average, only 12 officers at any given time responsible for supervising more than 1,000 prisoners—and at one point, there were as few as nine officers on duty. In 2002, 91 assaults had been recorded by December, making Alabama's only women's prison the most violent prison in the state. Prisoners suing the state asked for, among other things, a reduction in crowding and the hiring of more corrections officers (Crowder 2002). The corrections officers' employee association sought to join in the lawsuit because officers felt imperiled by the extraordinarily low staffing levels, especially in such a crowded, unsafe environment (Johnson 2003).

Under pressure by a federal judge, the state reduced the population at Tutwiler. But in a state prison system built for 12,000 that holds more than 26,000 prisoners, the only beds the state could find were in a private prison in Louisiana. The state has paid millions to send hundreds of women—generally those with the best records—500 miles from their children and families, where they now sit in a cleaner, cooler, safer, but equally idle environment (Crowder 2005). By 2005, a year after the settlement of the lawsuit, the population remaining at Tutwiler had been reduced to roughly 700, and some of the unsafe conditions had improved.

Law professor and prison consultant Vincent Nathan described crowded facilities with "broken toilets, compromised heating and ventilation systems, peeling paint, broken windows, mold-covered showers, generally filthy conditions, and other physical breakdowns [that] contribute to tension." Under these conditions, he explained, it is more difficult to maintain order and lawful behavior, and the level of inmate and staff safety "plummets." Nathan concluded that crowded facilities are "inhumane, unsafe, idle, and hopeless, precisely the opposite of what conscientious prison administrators are attempting to accomplish."

Conservative measures show a decline in crowding nationally among state prisons—from 114 percent of their highest, "operational" capacity in 1995 to 99 percent in 2004. A less conservative measure, based on institutional design, shows that facilities were operating at 115 percent of their capacity in 2004 (Harrison and Beck 2005). (For more information about how crowding is measured, see p. 104.) Corrections administrators define the operational capacity of their own facilities by drawing on a number of factors to ensure that living conditions and services at least meet constitutional standards. In reality, corrections administrators are often under pressure from county and state executives and legislators to raise their operational capacity and sometimes to exceed it. Moreover, many corrections

administrators believe that **running** at more than 90 percent of their system's **operational** capacity deprives them of necessary flexibility. While there is considerable **variation** among states and localities in levels of crowding, the majority of prisons and many jails are crowded by that **standard** (Harrison and **Beck** 2005). "**The average** American prisoner **lives** in an **environment** roughly the **size** of a king-size bed," psychologist and **prison consultant** Craig Haney told the **Commission**. He concluded that when crowding is understood as much more than squeezing more beds into a cell or unit, American prisons are "woefully overcrowded."

How **states** and localities, legislators, law enforcement **officials**, and judges should address the broad **issue** of system-wide crowding is beyond the scope of this Commission's **work**, but others, notably the Justice Kennedy Commission, have addressed this **important issue** (American Bar Association 2004). There is a dangerous mismatch between current capacity and the demands of the criminal justice system. Legislators **must** choose to either increase resources for corrections or reduce the demands placed on our **correctional** systems. Without action, they will perpetuate a system that too often leads to violence and abuse

2 Promote productivity and rehabilitation. Invest in programs that are proven to reduce violence and to change behavior over the long term.

Few conditions compromise the safety and security of a correctional institution more than idle **prisoners**. "Every parent, every educator, and, yes, every **corrections** professional can **attest** to the veracity of our grandparents' observations and admonishments that idle minds are the devil's workshop," **Devon Brown**, **corrections** commissioner in New Jersey told the Commission. *lamenting* the public's ignorance about the **links** between programming, **safer prisons**, and public safety.

Rehabilitation was the organizing principle of the American **penal system** for much of the **twentieth** century. But beginning in the 1970s, politicians began to rhetorically devalue **rehabilitation**. The result was that prisons became, at least from the perspective of tough-on-crime policymakers and much of the public, places that should protect society from criminality by incapacitating and punishing instead of seeking to help and change (Garland 2007). While the prison population grew astronomically, funding for education, vocational training, and rehabilitative programming did not keep pace.

Sergeant Gary Harkins, a 25-year corrections veteran testified, "When I first started at the Oregon State Pen, inmates had a wide range of educational and vocational programs. Inmates had the ability to earn a GED and continue all the way up to obtaining a doctorate. Over the years we've evolved to where we do not have any teachers on staff or even offer a GED program for the inmates at the pen.... Today at the pen, out of 24 programs, only three remain."

Nationwide, participation in prison educational and vocational programs declined dramatically between 1991 and 1997 despite increasing

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“If you don’t have programs, whether they’re schools, jobs, factories... that make up the naturally occurring forces that bring compliance with your rules, you are much more likely to be relying on force and handcuffs.”

Waiter Dickey, former secretary of the Wisconsin Department of Corrections

lengths of stay (Lynch and Sabol 2007). A go-state study conducted in 2003 and 2004 found that the numbers of prisoners receiving some post-secondary education had increased since the mid-1990s, when programming was at the height of political disfavor, but that only five percent of prisoners were enrolled in any form of post-secondary education. The hulk of those prisoners—89 percent—were incarcerated in just 15 state prison systems (Erisman and Bayer Contardo 2005).

The Commission hoard from expert criminologists, psychologists, corrections professionals, and community advocates about the dangers associated with “warehousing” prisoners. Professor Walter Dickey, former secretary of the Wisconsin Department of Corrections, told the Commission, “If you don’t have programs, whether they’re schools, jobs, factories... the things again that make up the naturally occurring forces that bring compliance with your rules, you are much more likely to be relying on force and handcuffs.” Increasingly, programs tested through research demonstrate that the old pessimism of the 1970s about rehabilitation was misguided. Targeted interventions work. In particular, highly structured programs that help prisoners understand the motivations underlying their actions and the consequences of their behavior can reduce misconduct in correctional facilities and lower recidivism rates by at least 10 percent (Ward and Eccleston 2004). These “cognitive-behavioral” programs are becoming more common. If implemented nationwide, they would reduce the number of people re-incarcerated by tens of thousands. Education—particularly at the college level—also reduces rule-breaking and disorder in prison. Studies show that post-secondary education can cut recidivism rates by nearly half (Erisman and Bayer Contardo 2005).

In recent years, faith- and character-based programs have been promoted to increase safety and reduce recidivism. These range from individual activities to entire faith-based facilities. According to a report by the National Institute of Corrections, nearly half of state and federal prison systems are operating or developing at least one residential, faith-based program (NIC 2005). These programs cultivate such things as life skills, anger management, personal growth and faith, family relationships, and victim awareness.

Effective programming requires money, effort, and a recommitment to rehabilitation. But it is not only an investment in safe prisons and jails. It is also an investment in safe and healthy communities. Lawmakers have a particular responsibility to fund programs that help prisoners returning to communities with high rates of unemployment. Employment opportunities for young, African-American men are particularly grim, and their persistent unemployment has a devastating effect on already poor communities. In some inner city areas, more than half of African-American males do not finish high school, and the unemployment rate for African-American males who have dropped out is 72 percent. By their mid-thirties, 60 percent of all African-American men who have dropped out will spend some time in prison. By comparison, the unemployment rates of white and Latino males who drop out of high school are 34 percent and 19 percent

respectively (Eckholm 2006). We need a strong investment in education, vocational training, and cognitive behavioral programs that have been demonstrated to promote safety in the short and long term.

3 Use objective classification and direct supervision. Incorporate violence prevention in every facility's fundamental classification and supervision procedures.

Reducing violence among prisoners depends on the decisions corrections administrators make about where to house prisoners and how to supervise them. Perhaps most important are the classification decisions managers make to ensure that housing units do not contain incompatible individuals or groups of people: informants and those they informed about, repeat violent offenders and vulnerable potential victims, and others who might dash with violent consequences. And these classifications should not be made on the basis of race or ethnicity, or their proxies (*Johnson v. California* 2005). Before 1980, most of the nation's prisons and jails used "subjective classification," which relies heavily on the judgment and hunches of line officers. Since then, every prison system has shifted, at least as a matter of policy, to "objective classification." These standardized and automated classification criteria "place greater emphasis on fairness, consistency, and openness in the decision-making process" (NIC 1992).

Numerous studies of both jails and prisons demonstrate that violent acts, escapes, and deaths by violence can all be significantly reduced by using a validated objective classification system (NIC 1992). But currently, the full potential of this tool is not being realized. As James Austin, a leading researcher, reported in 2003: "Although prison classification and other risk assessment instruments are now common, there is a disturbing trend that suggests that many of these systems were implemented without first being properly designed and tested" (Austin 2003). In addition, many jails do not use objective classification at all: In eight of the 21 states surveyed in 2003, fewer than half of local jails reported using objective classification (Clem and Shearin 2003). Given the benefits, the Commission urges every facility with more than a few beds to develop, test, and implement an objective classification system, drawing on others' experience and relying on the guidance of experts.

Prison and jail architecture, management, and models of supervision combine to create either safe and humane conditions or disruptive and dangerous ones. One extremely promising technique to promote safety is "direct supervision." In a facility that uses direct supervision, prisoners generally spend at least half of their time out of their cells, mingling with each other and with officers in "common areas." The housing units in direct supervision facilities are typically constructed as "pods," with cells or tiers of cells around the perimeter and a common area in the middle. Direct supervision stands in stark contrast to the traditional model of supervision where corrections officers monitor prisoners' living areas from posts enclosed behind glass or bars.

What Americans Believe

When Americans think about someone they know being incarcerated, the vast majority, 84 percent, say they would be concerned about the person's physical safety.

And 76 percent say they would be concerned about the person's health.

More than half of Americans, 55 percent, are acquainted with someone who has been incarcerated or who has worked in a correctional facility.

For the majority of Americans, knowing someone who has spent time or worked in jail or prison changed their impressions of life behind bars.

SOURCE: SURVEY IN MARCH AND APRIL OF 2006 BY PRINCETON SURVEY RESEARCH ASSOCIATES INTERNATIONAL FOR THE NATIONAL CENTER FOR STATE COURTS AND THE COMMISSION ON SAFETY AND ABUSE IN AMERICA'S PRISONS

First developed by the Federal Bureau of Prisons in the early 1970s and still underutilized, direct supervision "allows, and even requires, continuous personal interaction between corrections officers and inmates by putting them together, face-to-face in the living unit" (NIC 1989). Security in any Facility is heavily dependent upon the ability of highly trained staff to detect and defuse potential problems. The difference between the two models of supervision is the difference between interaction and reaction. Since officers in a direct supervision facility are constantly engaging with prisoners, they are better able to recognize signs of a potential problem before it manifests (NIC 1989).

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The impact on safety is impressive. The National Institute of Corrections conducted the most comprehensive study to date of direct supervision. Its 1989 research showed that those who run direct supervision facilities gave their own facilities higher safety ratings, compared with those who operate facilities that use "indirect" supervision. The in-depth case studies concluded that prisoners appear to feel considerably safer in direct supervision facilities and seem neither to have nor to need weapons to protect themselves. The study's authors noted that using direct supervision carries no greater cost and requires no additional staff yet appears to produce a safer, more livable environment. Another study put some numbers on the improvements: "Compared to traditional jails of similar size, the Metropolitan Correctional Centers and other direct supervision jails report much less conflict among inmates, and between inmates and staff. Violent incidents are reduced 30 to 50 percent" (Wener et al. 1987). Colonel David Parrish, Commander of the jails in Hillsborough County, Florida, agrees: "Direct supervision is recognized by progressive jail administrators as the most practical way to build and operate a detention facility. They are more staff efficient, cost-effective, and safer than traditional jails," he told the Commission.

Surprisingly, only a small minority of correctional facilities in the United States use direct supervision. A 2001 NIC directory listed fewer than 300 jails with any direct supervision units; collectively, those units housed less than a quarter of the nation's total jail population (NIC 2001). A large part of the resistance is attitudinal. "The first reaction to this arrangement by traditional wardens, jail officials, and most visitors is usually astonishment. They think of the public and staff safety in terms of hard barriers between us and them. The new design seemingly places officers at the mercy of inmates." In reality, however, "Officers in Constant and direct contact with inmates get to know them and can recognize and respond to trouble before it escalates into violence. They are no longer forced to wait to respond after trouble starts. Negotiation and communication become more important staff skills than brute strength" (Wener et al. 1987).

For direct supervision to be successful, of course, officers must **have** the competence to understand and respect persons from different racial, ethnic, and cultural backgrounds. And the opposite is also **true**: The more **natural** environment of a direct supervision pod helps to break down some of the differences between officers and staff that **can** contribute to tension and violence.

Staff who rely on direct supervision prevent **violence** and model pro-social behavior. While the design of some facilities makes direct supervision impossible, the Commission believes many more **facilities** could be converted and reap the benefits for prisoners and staff alike.

4 Use force, non-lethal weaponry, and restraints **only** as a last resort. Dramatically reduce the use of non-lethal weapons, restraints, and physical force by using non-forceful responses whenever possible, restricting the use of weaponry to qualified staff, and eliminating the use of restraints except when necessary to prevent serious injury to self or others.

Professional standards clearly prohibit **corrections officers** from using more force than necessary and from using force to deter, punish, or retaliate, or to inflict pain and injury. But for many reasons, the standards are not **always** successful in guiding behavior. There is **real disagreement**, and no data nationally, about how often force is used, how often it escalates, and how often it rises to the level of abuse. One thing is clear, however: The more frequently force is used, the more chances there are for abuses and injuries. Sergeant Michael Van Patten, a 20-year corrections veteran who specializes in training officers, explained to the Commission that even routine and minimal uses of force are "inherently violent." And a number of experts testified about the difficulty of controlling the amount of force used once it comes into play. The goal at all times should be to address conflicts that arise between staff and prisoners without resorting to force. When force is necessary to prevent serious harm it should be limited in degree and duration and carefully monitored.

Stories of **corrections officers** resorting to extreme and brutal violence to assert their control stand out among news headlines. Not long ago in Sacramento, California, a federal civil rights lawsuit was filed by a mortgage broker being held in the county jail for public intoxication. The key piece of evidence in the suit, which alleges the sanctioned and ongoing use of excessive force in the jail, is a surveillance tape of the prisoner, who had refused to sit down in the drunk tank, lying in a pool of his own blood after an officer allegedly pushed him in the floor, cracking open his skull (Korber and Jewett 2005).

In the worst cases, people die. Former General Counsel of the Texas prison system Steve Martin told the Commission that within the last five to seven years, he has served as an expert in more than 20 in-custody death cases in which prisoners died from being placed in a restraint chair, a restraint board, or four- or five-point restraints. In most of those cases the

"Officers go from zero to 150 in seconds."

Officer Donald Joseph Baumann.
California Department of Corrections

prisoners **were** mentally ill, and most of them died of asphyxia. A federal judge described numerous prisoners being snipped to their underwear and strapped to a mattress at the wrists, ankles, and across the chest for roughly 48 hours with only brief interruptions of mobility. Speaking about one prisoner in particular, the judge recounted evidence **that** he was in immense pain and hallucinating, and also urinated and vomited on himself: "Inmate Sadler may deserve to be in prison, but he did not deserve to be snapped to a bed for nearly two days" (*Sadler v. Young* 2004).

There are **wry** few instances in which someone should be fully pinned down in a restraint chair or in four- or five-point restraints. All correctional facilities should meet standards set by the American Correctional Association that define the circumstances under which this kind of **total** restraint is acceptable, require approval from a health authority, and call for visual observation every 15 minutes (ACA Standards 4-4190 and 4-4191). And they should go further: The circumstances under which **total** restraint is appropriate should be **even** narrower. Restraints should **only** be used when absolutely necessary to prevent serious harm to self or others. Equally important, complete physical restraint requires constant monitoring, with a medical staff member present at **all** times, and should be limited to **minutes** not hours.

Given the dangers inherent in any **use of force**, it should always **be** a last resort. When he began his career as a corrections officer in California, Lance Corcoran felt he "had to be the hardest guy in the valley [but] recognized **really** quickly that **that** only made things **more** difficult as a **correctional** officer." Corcoran told the Commission **that** officers' "most important tool ... is the ability to **communicate**." However, Steve Martin testified that pepper spray, TASER guns, and other non-lethal weapons are often used as a "first strike" response **before** other tactics are considered or attempted. He recounted a situation in which a prisoner had refused to relinquish his dinner tray. The man was unarmed, locked securely in his cell, and weighed **only** 130 pounds. Before even entering the cell, an "extraction team" of five officers and a sergeant discharged two multiple baton rounds, hitting the prisoner in the groin, dispensed two bursts of mace, and fired two TASER cartridges. The team then entered the **cell** and forcefully removed the prisoner.

It does not take **malice** on the part of officers for force to **escalate**. Sergeant Michael Van Patten explained to the Commission that the fear and adrenaline rush that **naturally** occurs in the moments prior to a cell extraction or planned use of force can cause officers to **lose** control and act more violently than necessary. This same phenomenon was explained by Officer Donald Joseph Baumann, a 19-year veteran of the California Department of Corrections. "Officers go from zero to 150 in seconds," he said. And **corrections** officers feel they work under the constant threat of spontaneous violent outbursts; they **literally** feel under **siege**. That feeling can lead officers, especially new and inexperienced ones, to **overreact** and **use** Force when talking would **be** more effective, or to use more force than necessary.

to resolve a situation. And these altercations can start or perpetuate a cycle of strikes and retaliation.

Other factors affect the decision to use force and how much force to use. Patrick McManus, the former Secretary of the Kansas Department of Corrections and an expert monitor in prison and jail systems nationwide, cautioned that although officers are under stress, "I don't know what that is the crux of the problem with the use of force. ...It's an institutionalized response that's based on a way of thinking about how people relate to each other in a prison." Officers fail to recognize the individual characteristics

A Federal judge described numerous prisoners being stripped to their underwear and strapped to a mattress at the wrists, ankles, and across the chest for roughly 48 hours with only brief interruptions of mobility.

of the person they are confronting and instead see merely an "inmate." Such perceptions can be exacerbated by cultural differences between officers and prison—. Perceptions of danger, which spur forceful responses, are especially susceptible to cultural misunderstandings and prejudices. As sociologist and former prisoner Douglas Thompson told the Commission, one must understand that race is often a "proxy for dangerousness." Efforts to understand and avert uses of force must include careful analysis of the role of race, ethnicity, and class in these decisions and events. Careful screening of staff at the time of employment and ongoing, in-depth training are necessary to ensure that an understanding of and respect for cultural differences shapes how staff relate to prisoners.

Training and supervision must emphasize that force can only be considered after non-physical responses to conflict have been exhausted. Officers need to learn how to distinguish between situations that require physical force and those that do not. They also need to learn how to determine what amount of force—if any—is required and when force is no longer necessary. Instruction should be backed up by a clear use-of-force hierarchy that prescribes specific kinds and degrees of force in response to a limited set of specific actions and situations, and it should outline de-escalation techniques to prevent the use of force.

Conflicts between staff and prisoners arise even in the best-run institutions, but nearly all of those situations can be managed without using physical force. While it might be instinctive to respond aggressively to someone who is being aggressive, the safety of both staff and prisoners depends on doing just the opposite. To talk merely of limiting the use of force is to miss a much larger opportunity to reframe the role of corrections officers in resolving and preventing conflict. Officers need guidance, inspiration, and a repertoire of effective, non-forceful responses so that the use of force is naturally limited to those rare situations where it is required to prevent serious harm.

'How could something so devastating happen in a supposedly secure and monitored environment? .. Why weren't there any cameras in the area where my son was killed?'

Pearl Beale

5 Employ **surveillance** technology. Make good use **of** recording surveillance **cameras** to monitor the correctional environment.

Pearl Beale's son died after being stabbed **nine times** by another prisoner **while** detained in a District of Columbia jail. After describing his death to the Commission, Beale posed these questions: "**How** could something so devastating happen in a supposedly **secure** and monitored **environment**?... Why weren't there any cameras **in the area where** my son was killed?"

In **February, 2006**, **New York City** settled a lawsuit filed **on** behalf of prisoners who accused officers of unnecessarily using head strikes and other **acts** of violence in the city's jails. A principal component of the settlement agreement is the installation of hundreds of **new** wall-mounted video cameras with recording capability—in addition to the **2,000** cameras already in place—providing coverage of large areas of the jails (Preston 2006, *Ingles v. Toro* 2006).

Whether violence **occurs** among prisoners or between staff and prisoners, surveillance **cameras** and other technologies **can** help. Their wider use was urged by a range of Commission witnesses. U.S. Department of Justice Inspector **General Glenn Fine** stressed the value of cameras for prosecutors: "**With** video surveillance you often **can** see what happened before or **after** an incident, so that's very important, and **we** have relied upon that kind of evidence **very strongly**." These visual and auditory records protect prisoners and staff from violence and from false allegations of misconduct. Leslie **Walker**, executive director of Massachusetts Correctional Legal Services, believes that cameras can even discourage the "tiny, degrading, everyday humiliating name calling that can occur." This behavior, she said, will not be reported with any regularity **or** believed **unless** it is "seen and heard."

There are **other** promising technologies. Non-invasive drug-detection devices, such as booths and wands, might be **used** to minimize **the** confrontation and humiliation that accompany searches of prisoners after visits **or** trips to court, searches that sometimes include the inspection **of** body cavities. Women prisoners, who more often **than** men are survivors of physical and sexual abuse, may be **particularly** traumatized **by** strip searches and body-cavity searches and **may** even avoid family visits as a result. Technologies that offer some relief from physical intrusion should be developed and deployed. **Similarly**, special computerized chairs that detect weapons can replace hand searches, and radio frequency identification (RFID) tags can track the movements of prisoners and staff, a powerful disincentive **to** be in the wrong place at the wrong time.

Any technology has the potential for negative collateral consequences. The additional stress and loss of **dignity** that might come from being **monitored** by surveillance cameras **must** be considered so that these approaches to violence **are not** counter-productive—coverage typically excludes prisoners' cells, for example. With due regard for **these** concerns, correctional agencies should **make** use of recording surveillance cameras and other technologies **to** prevent violence.

6 Support community and family bonds. Reexamine where prisons are located and where prisoners are assigned. encourage visitation, and implement phone call reform.

Strong connections to family and community give hope to people in prison—that elusive element that a correctional facility alone cannot provide but **can**, if it is not vigilant, destroy. And hope, it **turns out**, is critical to avoiding violence. The storehouse of self-respect and pride that a person finds in family and community **can** ward off the shame and humiliation that lead one to violence while incarcerated (Gilligan 1996). For prisoners who are parents, **incarceration** means being physically removed from children; for them it is critical that **we** make every **effort** to maintain family ties. And as former prisoner A. Sage Smith **explained**, visits from community volunteer; “inject a sense of purpose into many prisoners’ consciousness” and “bring a sense of concern and infuse a sense of hope” that can assist a prisoner’s positive transformation. These relationships with people outside the correctional facility **also** smooth the process of reentry and make it more likely that **prisoners** will succeed after release.

The Commission was told about various ways to support community and family bonds. We address **three** strategies here, although many others should **also** be considered. First, unlike local jails, prisons are filled with people who have been sent far from home, and in some cases transported to other states. The physical distance to the facility **can** make it nearly impossible for family to visit regularly and impractical to connect prisoners with groups based in their home communities. Recognizing the importance of family and community bonds, many state systems move prisoners to facilities closer to their home communities in the final months before release. But these bonds are important not only as part of the reentry process but as an important ingredient for a safe environment during incarceration.

Decisions about where to send prisoners, combined with the siting of many prisons far from the prisoners’ home communities, disproportionately affect African-American and Latino families and exacerbate the racial divide between prisoners and officers. According to one study, those decisions result in rural prisons, which have a greater concentration of white staff, holding higher percentages of African-American men than correctional facilities in urban areas (Farrigan and Glasmeier 2002). There is widespread agreement that for incarceration to be productive, support must be given to preserving a prisoner’s bonds with his or her family and community.

There are many reasons states build prisons in rural locations far from the urban centers from which most prisoners come: lower-cost land, a more favorable political environment, and the perception of a larger employment pool. These factors—reasonable in theory, sometimes debatable in practice—must be considered against the weakening of prisoners’ ties with family and community. While a shift in priorities would require tremendous political will, lawmakers should at least examine the impact of decisions about where to locate prisons. In the meantime, corrections administrators should look closely at their internal process for assigning

The Cost of Keeping in Touch

When people are incarcerated far from home, phone calls with partners, children, and parents are often the only practical way for these families to stay in touch. Calling rates vary considerably from state to state. Where collect calling is the only option and the rates are high, poor families make large sacrifices to speak with an incarcerated loved one.

Average cost of a 15-minute in-state long-distance collect call placed from a correctional facility

NEBRASKA	\$2.25
NEW MEXICO	\$4.38
VERMONT	\$4.70
NEVADA	\$5.03
FLORIDA	\$5.32
NEW JERSEY	\$9.00
WASHINGTON	\$17.77

State correctional facilities that enter into exclusive contracts with telephone companies typically reap 30 to 40 percent of all revenue generated—enormous sums that state legislatures have come to depend on.

Florida's Inmate Welfare Trust Fund took in \$15.3 million in fiscal year 2000.

Nevada collected \$20.5 million in 1999.

SOURCES: CALLING RATES PROVIDED BY CITIZENS UNITED FOR THE REHABILITATION OF ERRANTS (CURE); INFORMATION ABOUT COMMISSIONS PROVIDED BY THE AMERICAN BAR ASSOCIATION AND BY ALAN ELSNER IN HIS BOOK GATES OF INJUSTICE.

people to facilities and make decisions whenever possible that preserve family bonds. And no system should send their prisoners to other states.

Second, both prisons and jails must do a better job of welcoming visitors, providing ample space and time, and even assisting with transportation. There are costs involved to do this well, but these dollars would be well spent. And in many places the most needed investment is in a change of attitude. Visitors are often sent the erroneous and harmful message that they are not welcome in a facility and that they do not play an important role in supporting prisoners and the well-being of the facility. There are valid security concerns that require restrictions on visitation. Nonetheless, author Asha Bandele described to the Commission the humiliating and capricious treatment she received when visiting her incarcerated husband. She explained the consequences: "[Poor] treatment of family members has the potential to make the facility less secure because it can lead to severe tensions between a prisoner and a guard who humiliated or otherwise violated his wife."

Another way to encourage visitation is by allowing the greatest degree possible of closeness and privacy, given security imperatives. Because contact visits can inspire good behavior, people confined in both prisons and jails should be allowed to touch and embrace their children, partners, and other friends and family. Physical barriers and telephones should be reserved for those who have abused visitation privileges or otherwise have been determined to pose too great a risk. The Commission was told that people detained in the Washington, D.C., jails prefer to be held in the privately run facility rather than the public jail because, despite some of its disadvantages, it allows contact visits with family.

The final way correctional systems, principally prisons, might support family and community bonds is by minimizing the cost of prisoners' telephone calls. At present, most state systems allow only collect calls from prisoners (typically no direct calls out or incoming calls are allowed) and do so through contracts with providers that charge the recipient extraordinarily high rates, with the state receiving a commission. For example, in Florida, where only collect calls are allowed, a prisoner's 15-minute in-state long-distance call from prison costs \$5.32. Calling someone out of state costs \$17.30. The state earned over \$15 million in commissions on prisoners' calls in 2000 (Citizens United for the Rehabilitation of Errants, Florida Corrections Commission).

A growing group of corrections leaders recognize the critical importance of telephone communication for prisoners and their families. The American Correctional Association has taken the position that prisoners "should have access to a range of reasonably priced telecommunications services" with rates "commensurate with those charged to the general public" (ACA 2001). But many directors of state departments of corrections have been pressured by shortsighted legislatures to use telephone contracts to seek income for state general funds or corrections budgets rather than to ensure family unification. The result is that family members

of prisoners pay many times more than anyone else for the opportunity to speak with, a loved one.

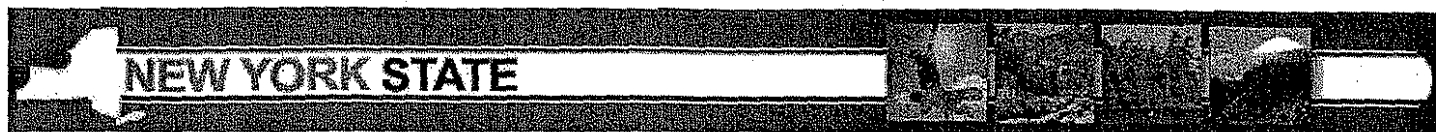
There has been considerable effort to convince lawmakers that, regardless of the income from telephone charges, interference with family unification is too high a price to pay. The American Bar Association recently adopted a recommendation urging "the lowest possible rates," among other measures to ensure ready telephone contact (ABA 2005). Some states are responding. Vermont requires phone contracts to offer prisoners the option of direct or collect calling at "the lowest reasonable cost" (Vt. Stat. Ann. tit. 28 §802a). New Mexico's statute bars its prisons and jails from receiving commissions on the amount billed and requires "the lowest cost of service" (N.M. Stat. Ann. §33-14-1). The District of Columbia bars correctional facilities from charging higher than local Public Service Commission rates and also bars surcharges on prisoner calls (D.C. Code Ann. §24-263.07).

Meanwhile, practices in some states more drastically interfere with prisoners' ability to maintain family and community bonds through phone contact. In Texas, for example, the very ability to make calls is severely restricted: "Offenders who demonstrate good behavior can earn one five-minute call every 90 days" (Texas Department of Criminal Justice 2006). State legislatures and correctional systems must end practices such as these that interfere with the maintenance of critically important family and community ties. ■

Strong connections to family and community give hope to people in prison. And hope, it turns out, is critical to avoiding violence.

PREVENT VIOLENCE: RECOMMENDATIONS RECAP

- a. Reduce crowding.** States and localities must commit to eliminating the crowded conditions that exist in many of the country's prisons and jails and work with corrections administrators to set and meet reasonable limits on the number of prisoners that facilities can safely house.
- 2. Promote productivity and rehabilitation.** Invest in programs that are proven to reduce violence and to change behavior over the long term.
- 3. Use objective classification and direct supervision.** Incorporate violence prevention in every facility's fundamental classification and supervision procedures.
- 4. Use force, non-lethal weaponry, and restraints only as a last resort.** Dramatically reduce the use of non-lethal weapons, restraints, and physical force by using: non-forceful responses whenever possible, restricting the use of weaponry to qualified staff, and eliminating the use of restraints except when necessary to prevent serious injury to self or others.
- 5. Employ surveillance technology.** Make good use of recording surveillance cameras to monitor the correctional environment.
- 6. Support community and family bonds.** Reexamine where prisons are located and where prisoners are assigned, encourage visitation, and implement phone call reform.



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FOR IMMEDIATE RELEASE:
January 8, 2007

PHONE CHARGES TO BE REDUCED FOR FAMILIES OF INMATES

The Governor today announced that the State Department of Correctional Services will reduce excessive telephone charges paid by the families of inmates at state correction facilities. This action precedes a previously scheduled argument slated for Tuesday, January 9, before the New York State Court of Appeals, during which the plaintiffs are challenging the legality of the previous administration's policy relating to the telephone costs.

Long seen as an unfair tax on inmate families, the newly proposed rates will charge only the cost of the call, allowing families to maintain contact with their loved ones without the undue financial burden of a State commission on the rate.

The Administration's action was made after consultation with Assemblyman Jeirion Aubry, who has long advocated for this change in policy and who shepherded legislation which passed the Assembly to end the excessive charge. The administration also consulted Senator Michael Nozzolio, who introduced similar legislation in the Senate.

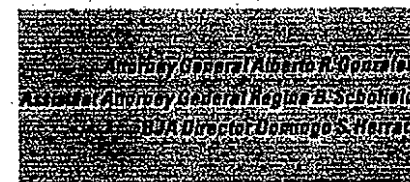
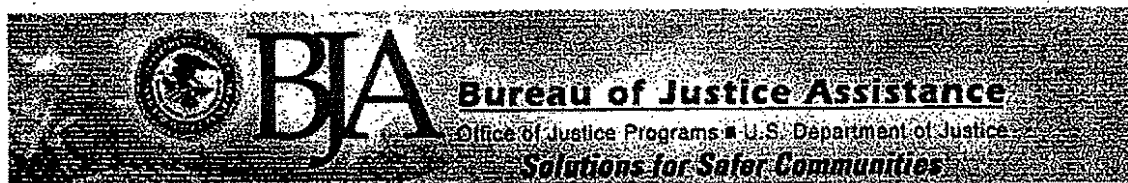
Assemblyman Aubry, Chairman of the Assembly Committee on Correction, said, "I am pleased that the Governor has committed to providing justice to the families of inmates, who have had to pay exorbitant telephone rates to talk to their loved ones. Thanks to the Governor for this humane decision and to the many advocates who made this solution possible."

Senator Nozzolio, Chairman of the Senate Crime and Corrections Committee, said, "Governor Spitzer deserves tremendous credit for quickly addressing this issue and developing a comprehensive solution which restores fairness. For many years I have fought to restore fairness to the policy of charging inmate's families exorbitant rates for simply staying in contact with family members who are incarcerated. It is my belief that the benefits of keeping a family together far outweigh the revenue gained from the current practice."

The action will be implemented by Brian Fischer, Acting Commissioner of the Department of Correctional Services, at the start of the April 1, 2007 fiscal year. The elimination of this commission will reduce the cost of these calls by at least 50 percent.

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Reentry Initiative

[Prisoner Reentry Initiative \(FY 2007 Competitive Grant Announcement\)](#)
[General BJA Grant Solicitation Frequently Asked Questions](#)

[FY 2006 Prisoner Reentry Initiative Awards](#)

Overview:

The Reentry Initiative is supported by the U.S. Department of Justice's Office of Justice Programs (OJP) and its federal partners: the U.S. Departments of Education, Health and Human Services, Housing and Urban Development, and Labor. This initiative is a comprehensive effort that addresses both juvenile and adult populations of serious, high-risk offenders. It provides funding to develop, implement, enhance, and evaluate reentry strategies that will ensure the safety of the community and the reduction of serious, violent crime. This is accomplished by preparing targeted offenders to successfully return to their communities after having served a significant period of secure confinement in a state training school, juvenile or adult correctional facility, or other secure institution.

The Reentry Initiative envisions the development of model reentry programs that begin in correctional institutions and continue throughout an offender's transition to and stabilization in the community. These programs provide for individual reentry plans that address issues confronting offenders as they return to the community. The initiative encompasses three phases and is implemented through appropriate programs:

Phase 1 Protect and Prepare: Institution-Based Programs. These programs are designed to prepare offenders to reenter society. Services provided in this phase include education, mental health and substance abuse treatment, job training, and family and community reconnection.

Phase 2 Control and Restore: Community-Based Transition Programs. These programs work with offenders prior to and immediately following their release from correctional institutions. Services provided in this phase include, as appropriate, supervision, mentoring, life-skills training, assessment, job-skills development, and mental health and substance abuse treatment.

Phase 3-Sustain and Support: Community-Based Long-Term Support Programs. These programs extend support to individuals who have left the supervision of the justice system with a network of social services agencies and community-based organizations to provide ongoing mentoring relationships.

Funding: FY 2007 funding has not been finalized.

How To Apply: The FY 2007 solicitation was released on October 25, 2006, and applications are due January 11, 2007. Applicants must apply through Grants.gov.

Training/Technical Assistance: The following agencies and organizations provide training and technical assistance that may be of use to those developing reentry programs:

[Center for Sex Offender Management](#)

[Community Capacity Development Office](#)

[National Training and Technical Assistance Center](#)

[OJJDP Intensive Aftercare Programs: Juvenile Reintegration and Aftercare Center](#)

State Activities and Resources: An online map that provides information—by state—about OJP reentry grantees, state resources and contacts, and other OJP resources.

Reentry Resource Map: An online map that provides information on resources at the federal, state, and local levels.

Related Publications/Information:

Prisoner Reentry Initiative ([FY2006 Competitive Grant Announcement](#))

[FY 2004 awards](#)

Serious and Violent Offender Reentry Initiative ([FY 2004 Supplemental Funding Application](#))

A list of related publications is available online and updated periodically.

[FY 2002 Reentry Grantees](#)

Related Link:

Reentry initiative web site

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FY 2005 Prisoner Reentry Initiative Grant Awards

Grantee	Award Amount
Arizona Department of Corrections	\$900,000
Connecticut Department of Correction	\$450,000
Florida Department of Corrections	\$450,000
California Youth & Adult Correctional Agency	\$1,800,000
Colorado Corrections	\$449,704
Illinois Department of Corrections	\$450,000
Iowa Department of Corrections	\$450,000
Louisiana Department of Public Safety and Corrections	\$900,000
Maryland Department of Public Safety and Correctional Services	\$450,000
Massachusetts Department of Correction	\$421,875
Michigan Department of Corrections	\$450,000
Missouri Department of Corrections	\$900,000
New Jersey Department of Corrections	\$900,000
NYS Division of Criminal Justice Services	\$815,538
Ohio Department of Rehabilitation and Correction	\$448,666
Oregon Department of Corrections	\$450,000
Pennsylvania Department of Corrections	\$449,000
Texas Department of Criminal Justice	\$1,350,000
Washington State Department of Corrections	\$450,000
Wisconsin Department of Corrections	\$450,000
Total Award Amounts	\$13,384,783